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JUDGE WOODS

15 CV 1795

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

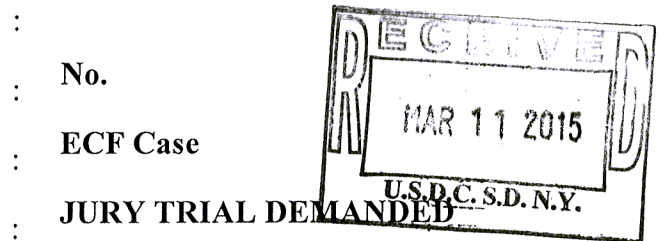
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RHINESTONE JEWELRY CORPORATION,

Plaintiff,

-against-

SETA CORPORATION OF BOCA, INC.; ABC  
COMPANIES; and JOHN DOES 1-10,

Defendants.  
-----X



COMPLAINT

Plaintiff Rhinestone Jewelry Corporation, by its attorneys, Cowan, Liebowitz & Latman, P.C., for its Complaint against defendants Seta Corporation of Boca, Inc., ABC Companies and John Does 1-10, alleges:

NATURE OF THE ACTION

1. This is a civil action for copyright infringement in violation of the Copyright Act, 17 U.S.C. § 101 *et seq.*

PARTIES

2. Plaintiff Rhinestone Jewelry Corporation (“Rhinestone”) is a New York corporation with its principal place of business at 2028 McDonald Avenue, Brooklyn, New York 11223.

3. Upon information and belief, defendant Seta Corporation of Boca, Inc. (“Seta Corp.”) is a Delaware corporation with a place of business at 6400 East Rogers Circle, Boca Raton, Florida 33499.

4. The true identities of ABC Companies are not presently known to Rhinestone; however, upon information and belief, ABC Companies 1-10 are directly engaged in and/or materially contribute to the infringing activities complained of herein. Rhinestone will amend its complaint upon discovery of the identities of defendants ABC Companies.

5. The true identities of John Does 1-10 are not presently known to Rhinestone; however, upon information and belief, they are associated with defendant Seta Corp. and materially contribute to its infringement of Rhinestone’s rights. Plaintiff will amend its complaint upon discovery of the identities of defendants John Does 1-10.

6. Seta Corp., ABC Companies and John Does 1-10 are hereinafter referred to collectively as “Defendants.”

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338.

8. This Court has personal jurisdiction over Defendants because, on information and belief, Defendants, in person or through an agent

(a) have transacted business, and/or has contracted to supply goods, in New York, including through Seta Corp.’s highly interactive website located at [www.palmbeachjewelry.com](http://www.palmbeachjewelry.com), as well as on third-party websites including [Walmart.com](http://Walmart.com), [Sears.com](http://Sears.com), [Newegg.com](http://Newegg.com), [Rakuten.com](http://Rakuten.com) and [Wayfair.com](http://Wayfair.com), on which merchandise is offered for sale and sold to New York customers; and/or

(b) (i) have committed the infringing acts described herein, causing injury to Rhinestone in New York, and (ii) expected or reasonably should have expected their infringing acts to have consequences in New York, and (iii) derive substantial revenue from interstate or international commerce.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c).

#### **RHINESTONE'S ANGEL NO. 7228 DESIGN**

10. Since 1991, Rhinestone, a family-owned company, has been engaged in the business of designing, creating, and selling jewelry.

11. Rhinestone jewelry products are widely sold and advertised throughout the United States.

12. Rhinestone's business is built in large measure upon original jewelry designs that are created by Rhinestone's employees in-house, at substantial expense.

13. In 1995, Rhinestone's in-house jewelry designer created an original jewelry design designated as Angel No. 7228:



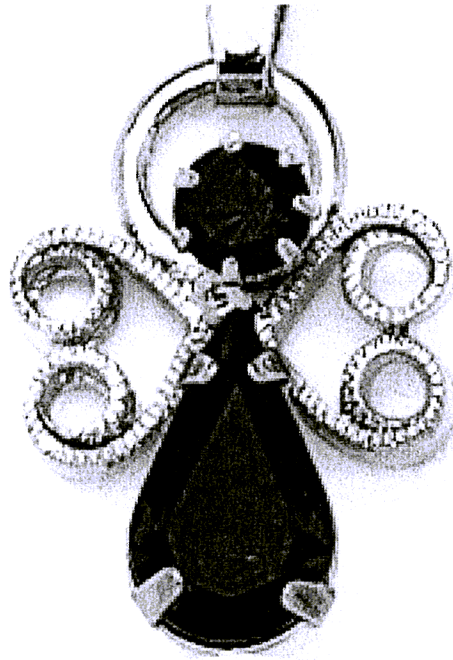
14. Rhinestone began to sell and distribute jewelry products in the Angel No. 7228 design in November 1995.

15. Rhinestone registered its copyright in the Angel No. 7228 design at the United States Copyright Office under Registration No. VA 772-709, with an effective date of January 25, 1996.

### **DEFENDANTS' INFRINGEMENTS**

16. Defendants have promoted, advertised, sold and distributed jewelry products bearing designs that are copied from and substantially similar to Rhinestone's Angel No. 7228 design, including products designated as

(a) "PalmBeach Birthstone Angel Pendant":



; and

(b) “PalmBeach Crystal Heart and Angel Charm Bracelet”:



(the “Infringing Seta Corp. Jewelry”).

17. Defendants have offered for sale, sold and distributed the Infringing Seta Corp. Jewelry through multiple channels, including but not limited to Walmart.com, Sears.com, Newegg.com, Rakuten.com and Wayfair.com, as well as Seta Corp.’s Palmbeachjewelry.com site.

18. The acts of Defendants described above were committed without the permission, license or consent of Rhinestone.

19. Upon information and belief, the acts of Defendants described above were committed with knowledge or in reckless disregard of Rhinestone’s exclusive rights in the Angel No. 7228 design.

**CLAIM FOR RELIEF  
(Copyright Infringement)**

20. Rhinestone repeats and realleges the assertions contained in paragraphs 1 through 19 above.

21. Rhinestone is the author of, and sole proprietor of all right, title and interest in and to the copyright in, the Angel No. 7228 design. Under 17 U.S.C. § 106, Rhinestone has the exclusive right to reproduce, import, distribute, publicly display and prepare derivative works based on the Angel No. 7228 design.

22. As alleged above, Defendants have infringed Rhinestone's copyright in the Angel No. 7228 design by unlawfully manufacturing or causing to be manufactured, publicly displaying, and promoting, selling and distributing products that are copied in whole or in part from, and are substantially similar to the protected expression in, the Angel No. 7228 design.

23. Defendants' infringements were willful in that they were committed with knowledge or in reckless disregard of Rhinestone's exclusive rights in the Angel No. 7228 design.

24. Rhinestone is entitled to recover from Defendants its actual damages as well as all of the profits of Defendants attributable to the infringements and not taken into account in computing actual damages, pursuant to 17 U.S.C. § 504(b); or, at Rhinestone's election, an award of statutory damages pursuant to 17 U.S.C. § 504(c).

25. Rhinestone is also entitled to recover its costs and attorneys' fees from Defendants pursuant to 17 U.S.C. § 505.

26. As a result of Defendants' copyright infringements, Rhinestone has suffered, and will continue to suffer, irreparable injury not fully compensable in monetary damages, and is



therefore entitled to an injunction enjoining Defendants from engaging in their infringing activities.

**WHEREFORE**, Rhinestone prays that the Court:

- A. Find that Defendants have willfully infringed Rhinestone's copyrights in the Angel No. 7228 design;
- B. Preliminarily and permanently enjoin Defendants, their officers, agents, employees, and related companies, and all persons acting for, with, by, through, or under them, from manufacturing, copying, reproducing, importing, distributing, advertising, promoting, offering for sale or selling products or articles bearing any design identical or substantially similar to the Angel No. 7228 design;
- C. Order the impoundment and destruction of the Infringing Seta Corp. Jewelry under 17 U.S.C. § 503;
- D.
  - (i) Award to Rhinestone, pursuant to 17 U.S.C. § 504(c), its actual damages incurred as a result of Defendants' acts of copyright infringement, and all profits Defendants realized as a result of such unlawful acts, in amounts to be determined at trial; or
  - (ii) In the alternative, award to Rhinestone, at its election, statutory damages pursuant to 17 U.S.C. § 504(c);
- E. Award to Rhinestone its costs and attorneys' fees incurred as a result of Defendants' unlawful acts, pursuant to 17 U.S.C. § 505; and

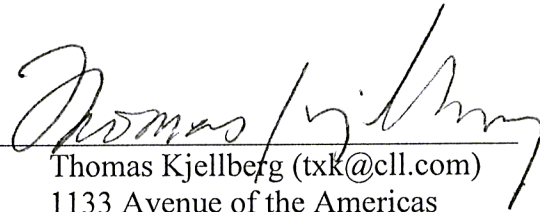
F. Grant such other and further relief as the Court deems necessary and proper under the circumstances.

Dated: New York, New York  
March 10, 2015

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.

By:



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